

078067049

## THE PETITION OF ROSENWALL GARDENS ASSOCIATES

alleges:

1. Petitioner is the landlord

I.T. No.

Civil Court of the City of New York  
Bronx Housing Part

ROSENWALL GARDENS ASSOCIATE Petitioner  
Landlord  
against  
JANE S. MORALES  
CLARA POTTER  
2500 SEDGWICK AVENUE  
BRONX, NEW YORK  
APT # 4K  
Rental amount due  
rent claimed \$ 52,550.00

## PETITION-NON-PAYMENT DUE-LING

Notice of  
Petition served onNotice of  
Petition returned onNotice of  
Petition issued on

Tenant appears on

but fails to answer.

Tenant answers on

Answer is

Set for Trial on

Landlord notified on

Sufficiency of answer refuted

to court

Raises

Issue

Judge

Attorney for Petitioner  
SULIVAN, MINTZ, BAKER & SONNENFELD  
1000 BRONX TURNPIKE  
BRONXVILLE, NEW YORK 10461  
516-775-6530

2. Respondent(s) JANE S. MORALES is (are) tenant(s) in possession of said premises pursuant to a WRITTEN wherein respondent promised to pay to landlord as rent \$ 850.00 each month in advance on the 1st day of each month.

3. Respondent(s) is (are) now in possession of said premises. Said premises are in building known as 2300 SEDGWICK AVENUE ALL ROOMS APT # 4K situated within the territorial jurisdiction of the Civil Court of the City of New York, County of BRONX.

4. Respondents from which removal is sought were rented for dwelling 5. The premises are a multiple dwelling and pursuant to the Omnibus Housing Act of 1983 and the Housing Maintenance Code Article 41 there is a currently effective rent control or rent stabilization order in effect in the Bronx.

6. Pursuant to said agreement there was due from respondent tenant(s), the sum of \$2,550.00 in rent and additional rent as follows:

AUG 07	\$ 850.00
SEP 07	\$ 850.00
OCT 07	\$ 850.00

7. THE APARTMENT IS SUBJECT TO RENT STABILIZATION LAW AND THE RENT DUE IS \$ 850.00. THE APARTMENT IS NOW SUBJECT TO THE OMNIBUS HOUSING ACT OF 1983 AND THE APARTMENT IS REGISTERED WITH DHCR.

7B. REASONABLE LEGAL AND LATE FEES TO BE DETERMINED BY THE COURT.

8. Said rent has been demanded BY A WRITTEN NOTICE DAY WRITTEN NOTICE DAY and continues in possession of premises without permission after said default.

9. Respondents have defaulted in the payments thereof and continue in possession of premises without permission after said default.

10. The premises are a multiple dwelling and pursuant to the Housing Maintenance Code Article 41 there is a currently effective rent control or rent stabilization order in effect in the Bronx.

WHEREFORE Petitioner requests a final judgment against respondent(s) for the real demands herein, awarding possession of premises to petitioner landlord, and directing the issuance of a warrant to remove respondent(s) from possession of the premises above, with costs and disbursements of this proceeding.

Dated: 10/04/07 ROSENWALL GARDENS ASSOCIATES  
STATE OF NEW YORK, COUNTY OF BRONX

The Undersigned affirms under penalty of perjury that he is one of the attorneys for the Petitioner.

that he has read the foregoing petition and knows the contents thereof; that the same are true to his own knowledge except as to that stated to be upon information and belief; and as to those matters he believes them to be true.

The grounds of defendant's belief as to all matters not stated upon defendant's knowledge are as follows: statements and/or recitals provided by petitioner, its agents and/or employees and contained in the file in the attorney's office.

This verification is made pursuant to the

CLARA POTTER, ESQ.





County of 151  
Housing PartIndex No.: 67049707Rosewall Garden

Petitioner(s),

-against-

Morales/Potter

Respondent(s)

LANDLORD/TENANT  
ANSWER IN PERSONAddress: 9300 Sedgwick10468 Apt. UK

Respondent has appeared and has orally answered the Petition as follows:

AnswerSERVICE

1.  The Respondent did not receive a copy of the Notice of Petition and Petition.

2.  The Respondent received the Notice of Petition and Petition, but service was not correct as required by law.

PARTIESSPANISH INTERPRETER

3.  The Respondent is indicated improperly, by the wrong name, or is not indicated on the Notice of Petition and Petition.

4.  The Petitioner is not the Landlord or Owner of the building, or a proper party.

RENT

5.  No rent demand or proper rent demand, either oral or written, was made before this proceeding.

6.  The Respondent tried to pay the rent, but the Petitioner refused to accept it.

7.  The monthly rent being requested is not the legal rent or the amount on the current lease.

8.  The Petitioner owes money to the Respondent because of a rent overcharge.

9.  The rent, or a portion of the rent, has already been paid to the Petitioner.

APARTMENT

10.  There are conditions in the apartment which need to be repaired and/or services which the Petitioner has not provided.

11.  Public Assistance shelter allowance has stopped because of housing code violations in the apartment or the building.

12.  The apartment is an illegal apartment.

OTHER

13.  Laches.

14.  General Denial.

15.  Other Answer

T. DISPUTES Amount10/07/09

Dated

Clerk's Initials BBNOTICE OF SCHEDULED APPEARANCE

This case is scheduled to appear on the calendar as follows:

DATE: 10/24/09 HORA: 01:30 PARTE: 1 SALA: 450  
TIME: 01:30 PART: 1 ROOM: 450

YOU SHOULD ARRIVE AT THE COURTHOUSE AT LEAST ONE HALF HOUR BEFORE THE ABOVE SCHEDULED TIME, TO ALLOW TIME TO BE PROCESSED THROUGH THE METAL DETECTORS. IF A SETTLEMENT IS NOT REACHED ON THE ABOVE SCHEDULED DATE THE CASE MAY BE SENT TO A TRIAL-READY PART FOR A TRIAL. IF YOU WILL NOT BE READY FOR TRIAL ON THE ABOVE SCHEDULED DATE, YOU MUST ASK THE COURT FOR ANOTHER TRIAL DATE. IF THE COURT DOES NOT ACCEPT YOUR REASON FOR NOT BEING READY FOR TRIAL, AND YOUR REQUEST FOR ANOTHER TRIAL DATE IS DENIED, YOU MAY BE REQUIRED TO PROCEED TO TRIAL IMMEDIATELY.

THE CLERK CANNOT CHANGE THE SCHEDULED DATE OR TIME.  
YOU MUST APPEAR AND BRING THIS FORM WITH YOU.

For assistance visit a Resource Center in the courthouse or the court's website: NYCourts.Gov/NYCHousing.

V COUNTY OF BX PART

Reservoir Gardens Assoc

Petitioner  
LandlordJames Morakos  
Clara Patter

against -

Respondent  
Tenant

ADDRESS

APT.

DATE 1/29/08HON. McClainINDEX NO. 67049 07

YR INDEX NUMBER

IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

(1) PETITION IS AMENDED TO INCLUDE ALL RENT DUE THROUGH 1/29/08(2) FINAL JUDGEMENT IS ENTERED IN FAVOR OF THE PETITIONER IN THE SUM OF \$ 2,601.16(3) ISSUANCE OF THE WARRANT SHALL BE FORTHWITH (EXECUTION) STAYED AS FOLLOWS:(A) TENANT TO PAY \$ 2,601.16 ON OR BEFORE 2/29/08(B) TENANT TO PAY \$ ON OR BEFORE (C) TENANT TO PAY \$ ON OR BEFORE (D) TENANT TO PAY \$ ON OR BEFORE 

(4) IN THE EVENT TENANT FAILS TO MAKE ANY PAYMENT(S) ABOVE, THE WARRANT SHALL (ISSUE UPON LANDLORD'S AFFIDAVIT OF NONCOMPLIANCE OR ATTORNEY'S AFFIRMATION) EXECUTE UPON SERVICE OF MARSHALL'S NOTICE.

(5) IN THE EVENT TENANT DEFAULTS ON ANY PAYMENT(S) INCLUDING CURRENT RENT, THE ENTIRE FINAL JUDGEMENT AMOUNT WILL BE DUE IMMEDIATELY.

(6) THE ABOVE FINAL JUDGEMENT AMOUNT DOES NOT INCLUDE RENT FOR THE MONTH(S) OCCURRING AFTER THIS DATE WHICH RENT IS PAYABLE WHEN DUE AS FOLLOWS:

(7) THEREFORE, ALL PAYMENT(S) RECEIVED DURING THE MONTHS HEREIN AFTER WILL BE APPLIED TO CURRENT RENT FOR THAT MONTH, AND THEN SATISFY THE JUDGEMENT AMOUNT AS PER PARAGRAPH THREE.

(8) IF ANY DISPUTED BALANCE CANNOT BE RESOLVED, THE PETITIONER MAY MOVE TO AMEND THE JUDGEMENT AMOUNT OR INSTITUTE A NEW PROCEEDING FOR SAID DISPUTED BALANCE.

(9) Petitioner waives Rule 247(a) for 1

OSC for good cause shown

(10) Petitioner to inspect & make repairs as  
 legally required: bathroom ceiling light, leaky  
 ceiling. Respondent to provide access in 2/13/08  
 but 9:45 pm (Workers to arrive by 11:30 am). Condition  
 to be corrected w/in 30 days of access

Dep't # 347 726.4700

DATED: 1/29/08GUTMAN MINTZ, BAKER & SONNENFELDT, P.C.  
ATTORNEYS FOR PETITIONERSBY: John Gutman  
813 JERICHO TURNPIKE  
NEW HYDE PARK, N.Y. 11040

AGENT

clara Patter

TENANT

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX PART 1  
DECISION AND JUDGMENT

INDEX # 067049/2007  
JUDGMENT SEQ # 001

ROSEWALL GARDENS, ASSOCIATES

Petitioner(s)

AGAINST  
MORALES, JAMES  
POTTER, CLARA

Respondent(s)

Decision and judgment is rendered based upon  
a stipulation entered into by the parties as follows:

Judgment of possession is granted in favor of:

ROSEWALL GARDENS, ASSOCIATES  
and against

POTTER, CLARA

A counterclaim is granted in favor of the respondent in the amount of \$0.00  
(which if not being entered separately is offset and reflected in the  
total amount due, listed below.)

A money judgment is hereby granted, along with cost and disbursements  
in the amount of \$0.00 in favor of:  
ROSEWALL GARDENS, ASSOCIATES  
and against  
POTTER, CLARA

for a total amount of \$2601.16

(Monthly use and occupancy is set at \$0.00 per month, as per order,  
stipulation or decision in record.)

Warrant to issue as per stip/order

Execution

25 p/s/jp

Date JAN 29 2008

HON. KEVIN C. McGLANAHAN

Judge, Civil/Housing Court

Section 5020(c) of the Civil Practice Law and Rules requires that a satisfaction be filed with the  
clerk when the judgment is satisfied. Failure to do so subjects the judgment creditor to penalties.

ENTRY OF JUDGMENT

*Jack B. Gandy*

Judgment entered in accordance with the above on JAN 29 2008

Chief Clerk, Civil Court

Warrant issued to Marshal

On

Page 1 of 1

CIV-LT-50(2006)

CIVIL COURT OF THE CITY OF NEW YORK

COUNTY OF BRONX

ORDER TO SHOW CAUSE TO VACATE DEFAULT JUDGMENT AND TO RESTORE TO THE CALENDAR

INDEX NO. 067049/2008

SEQ NO. 001

ROSEWALL GARDENS ASSOCIATES  
 AGAINST PETITIONER(S),  
 MORALE/S/POTTER JAMES/CLARA  
 RESPONDENT(S)

SPANISH INTAKE

PREMISES:  
 2300 SEDGWICK AVENUE 4K  
 BRONX NY 104680000

UPON THE ANNEXED AFFIDAVIT (ON BEHALF) OF JAMES/CLARA MORALE/S/POTTER,  
 THE ABOVE NAMED RESPONDENT(S), SWEORN TO ON FEBRUARY 20, 2008,  
 AND UPON ALL THE PAPERS AND PROCEEDINGS HEREIN:

LET THE PETITIONER(S) OR HIS/HER/THEIR ATTORNEY(S) SHOW CAUSE AT A  
 MOTION TERM OF THE

CIVIL COURT OF THE CITY OF NEW YORK  
 HOUSING PART: PART L, RM. 450  
 LOCATED AT: 1118 GRAND CONCOURSE, BRONX  
 ON: MARCH 13, 2008, AT 09:30 AM

OR AS SOON THEREAFTER AS COUNSEL MAY BE HEARD, WHY AN ORDER SHOULD NOT BE MADE:

VACATING THE JUDGMENT BASED ON THE RESPONDENTS FAILURE TO APPEAR,  
 RESTORING THE CASE TO THE CALENDAR AND/OR GRANTING SUCH OTHER  
 AND FURTHER RELIEF AS MAY BE JUST.

UNTIL THE ENTRY OF A COURT ORDER, ALL PROCEEDINGS BY PETITIONER,  
 HIS/HER ATTORNEY, AND ANY CITY MARSHAL ARE STAYED.

SERVICE OF A COPY OF THIS ORDER TO SHOW CAUSE AND ANNEXED AFFIDAVIT UPON THE  
 PARTY'S ATTORNEY (OR, IF HE/SHE HAS NONE, ON THE PARTY),  
 ATTORNEY (OR PARTY)

(JUDGE TO INITIAL)

MARSHAL:

BY PERSONAL SERVICE "IN HAND DELIVERY"

(JUDGE TO INITIAL)

BY PERSONAL SERVICE "IN HAND DELIVER

BY CERTIFIED MAIL, R. R. R.

BY CERTIFIED MAIL, R. R. R.

BY FIRST CLASS MAIL WITH CERTIFICATE

BY FIRST CLASS MAIL WITH CERTIFICATE

OF MAILING AT POST OFFICE

OF MAILING AT POST OFFICE

ON OR BEFORE 2/28/08

, SHALL BE DEEMED GOOD AND SUFFICIENT

PAPERS MAY BE SERVED BY THE RESPONDENT IN PERSON.

PROOF OF SUCH SERVICE MAY BE FILED WITH THE CLERK IN THE PART INDICATED ABC  
 OR IN THE L & T CLERK'S OFFICE, BEFORE THE RETURN DATE OF THIS ORDER TO SHOW CAUSE

ATTORNEY:

GUTMAN, MINTZ, BAKER & SONNENFELD  
 213 JERICHO TURNPIKE  
 NEW HYDE PARK, NY 11040  
 TELEPHONE: (516) 775-6590

MARSHAL:

KEVIN McCLEAN  
 JUDGE, CIVIL HOUSING COURT

DATE  
2/28/08

DENIED

GENERATED: 02/28/2008 @ 13:26:53

CIV-LT-71 (REVISED 7/99)

## Civil Court of the City of New York

COUNTY OF

Housing Part

against

Petitioner,

Petitioner,

Petitioner,

Petitioner,

RESIDENT  
CARD

(PLEASE PRESS HARD)

Index No. LT

67049-87

## AFFIDAVIT IN SUPPORT OF

## AN ORDER TO SHOW CAUSE TO VACATE A JUDGMENT

Based Upon a) Failure To Appear b) Failure to Comply  
and

## TO RESTORE TO THE CALENDAR

Address: 2300 BEDFORD  
BRONX, NY 10468  
Apt. 4K

State of New York, County of BX ss.:

SPANISH INTERPRETER

CLARA POTTER

(Print Your Name)

Tenant's Initials

, being duly sworn, deposes and says:

1. PARTY a) I am the tenant named as respondent in the above summary proceeding.  
b) I am the person claiming possession to these premises and am the \_\_\_\_\_ of the tenant named above.

2. SERVICE I received the Notice of Petition and Petition in this proceeding, filed my answer in the Clerk's Office and received a date for trial.  
and ANSWER I received a Holdover Notice of Petition and Petition and the date had already passed.

3. EXCUSE On the Date of Trial before Judge \_\_\_\_\_  
a) a Judgment was entered against me by default for my *failure to appear*. My reason for not appearing in Court on the date scheduled for (Trial) (Motion) is: \_\_\_\_\_  
b) a Judgment was entered (after trial) (after stipulation) but (I) (the Landlord) *failed to comply* with the Order of the Court because: \_\_\_\_\_

4. DEFENSE I allege that I have a good defense because:

I was improperly served. \_\_\_\_\_ petitioner is not the owner. \_\_\_\_\_

the amount being claimed is incorrect. \_\_\_\_\_ no rent was demanded. \_\_\_\_\_

there is credit due for rent overcharge. \_\_\_\_\_ the rent has been partially/fully paid. \* \_\_\_\_\_

the rent has been offered and refused. \_\_\_\_\_ I have been harassed. \_\_\_\_\_

there are conditions in the apartment which need repair, or services which have not been provided. \_\_\_\_\_

\*Explain rent payments, if any, or other defense: *Necesito más tiempo.*

*Por que estoy esperando el income tax, ya estás.*

*Leva solo ofrecio el dinero si necesitas papas, ya la tengo.*

5. REQUEST I request that the Judgment be vacated, that the case be restored to the calendar and that I be granted permission to serve these papers in person. *Tan pronto como el income tax*

6. PRIOR ORDER a) I have not had a previous Order to Show Cause regarding this index number. *Mejor no tener que pagar.*  
b) I have had a previous Order to Show Cause regarding this index number but I am making this further application because: *Y el Juez no ha hecho lo que tiene que hacer.*

Sworn to before me this 28 day of May, 2008

*Clara Potter*

Signature of Respondent

Signature of Court Employee and Title

\*\*\*\*\* CIVIL COURT OF THE CITY OF NEW YORK \*\*\*\*\*  
 COUNTY OF BRONX  
 HOUSING PART L, RM. 450  
 MARCH 13, 2008

INDEX NO. 067049/2007  
 MOTION SEQUENCE NO. 2001

ROSEWALL GARDENS	ASSOCIATES	DECISION/ORDER
	PETITIONER(S),	
AGAINST		PRESENT
MORALES/POTTER	JAMES/CLARA	KEVIN MCCLANAHAN
	RESPONDENT(S)	JUDGE

RECITATION, AS REQUIRED BY CPR 2019(A), OF THE PAPERS CONSIDERED IN THE REVIEW OF THIS OSC TO VACATE DEFAULT JUDGMENT/RESTORE TO THE CALENDAR

PAPERS	NUMBERED
NOTICE OF MOTION AND AFFIDAVITS ANNEXED.	
ORDER TO SHOW CAUSE AND AFFIDAVITS ANNEXED.	
ANSWERING AFFIDAVITS.	
REPLYING AFFIDAVITS.	
EXHIBITS.	
STIPULATIONS.	
OTHER.	

UPON THE FOREGOING CITED PAPERS, THE DECISION/ORDER IN THIS MOTION IS AS FOLLOWS:

*by: Gaff*  
*Per or Subst Vacated*

*FSLC 4352-74*

*3/13/08*  
 DATE

JUDGE, CIVIL/HOUSING COURT

ADJOURNMENTS

RECEIVED  
CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX  
HOUSING PART L, RM. 450  
MARCH 13, 2008

INDEX NO. 067049/2007  
MOTION SEQUENCE NO. 1 001

**SPANISH INTERPRETER**

ROSEWALL GARDENS	ASSOCIATES	DECISION/ORDER
AGAINST	PETITIONER(S),	
MORALES/POTTER	JAMES/CLARA	PRESENT:
	RESPONDENT(S)	KEVIN MCCLANAHAN
		JUDGE

RECITATION, AS REQUIRED BY CPLR 2219(A), OF THE PAPERS CONSIDERED IN THE REVIEW OF THIS OSC TO VACATE DEFAULT JUDGMENT/RESTORE TO THE CALENDAR

PAPERS NUMBERED

NOTICE OF MOTION AND AFFIDAVITS ANNEXED.	_____
ORDER TO SHOW CAUSE AND AFFIDAVITS ANNEXED.	_____
ANSWERING AFFIDAVITS.	_____
REPLYING AFFIDAVITS.	_____
EXHIBITS.	_____
STIPULATIONS.	_____
OTHER	_____

UPON THE FOREGOING CITED PAPERS, THE DECISION/ORDER IN THIS MOTION IS AS FOLLOWS:

*Mr. Ganzel*  
*Permit Vacate*  
*FSL 4352-74*

3/13/08  
DATE

JUDGE, CIVIL/HOUSING COURT

ADJOURNMENTS

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF Bk PART L

Rosedale Gardens Assoc.

Petitioner-  
Landlord

- against -

Clark Potter  
James MoralesRespondent-  
TenantDATE 3/10/08

3/13

HON. McGinnINDEX NO. 67049/07

YR

INDEX NUMBER

ADDRESS 2308 Sedgwick APT. APerior judgment vacated

IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

- (1) PETITION IS AMENDED TO INCLUDE ALL RENT DUE THROUGH 3/08
- (2) FINAL JUDGEMENT IS ENTERED IN FAVOR OF THE PETITIONER IN THE SUM OF \$4,352.74
- (3) ISSUANCE OF THE WARRANT SHALL BE (FORTHWITH, EXECUTION) STAYED AS FOLLOWS:
  - (A) TENANT TO PAY \$ 4,352.74 ON OR BEFORE 4/4/08
  - (B) TENANT TO PAY \$ \_\_\_\_\_ ON OR BEFORE \_\_\_\_\_
  - (C) TENANT TO PAY \$ \_\_\_\_\_ ON OR BEFORE \_\_\_\_\_
  - (D) TENANT TO PAY \$ \_\_\_\_\_ ON OR BEFORE \_\_\_\_\_
- (4) IN THE EVENT TENANT FAILS TO MAKE ANY PAYMENT(S) ABOVE, THE WARRANT SHALL (ISSUED UPON LANDLORD'S AFFIDAVIT OF NONCOMPLIANCE OR ATTORNEYS AFFIRMATION) EXECUTE UPON SERVICE OF MARSHALL'S NOTICE.
- (5) IN THE EVENT TENANT DEFAULTS ON ANY PAYMENT(S) INCLUDING CURRENT RENT, THE ENTIRE FINAL JUDGEMENT AMOUNT WILL BE DUE IMMEDIATELY.
- (6) THE ABOVE FINAL JUDGEMENT AMOUNT DOES NOT INCLUDE RENT FOR THE MONTH(S) OCCURRING AFTER THIS DATE WHICH RENT IS PAYABLE WHEN DUE AS FOLLOWS:
- (7) THEREFORE, ALL PAYMENT(S) RECEIVED DURING THE MONTHS HEREIN AFTER WILL BE APPLIED TO CURRENT RENT FOR THAT MONTH, AND THEN SATISFY THE JUDGEMENT AMOUNT AS PER PARAGRAPH THREE.
- (8) IF ANY DISPUTED BALANCE CANNOT BE RESOLVED, THE PETITIONER MAY MOVE TO AMEND THE JUDGEMENT AMOUNT OR INSTITUTE A NEW PROCEEDING FOR SAID DISPUTED BALANCE.

I will inspect & repair as required by law following  
alleged repairs: (1) windows, (2) bathroom ceiling, (3) bedroom ceiling hole  
Access 3/27/08

(9) James Morales, who fails to appear today & is not  
currently in the military as supported by the 1099 as affirmed by Clark Potter,  
is defaulted & as such a default judgment is taken herein.

DATED:

GUTMAN, MINTZ, BAKER & SONNENFELDT, P.C.  
ATTORNEYS FOR PETITIONERSBY: Clark Potter  
813 JERICHO TURNPIKE  
NEW HYDE PARK, N.Y. 11040

AGENT

TENANT

Clark Potter

Page 11

JUDGEMENT

ROSEWALL GARDENS, ASSOCIATES

Petitioner(s)

AGAINST  
MORALES, JAMES  
POTTER, CLARA

Respondent(s)

Decision and judgment is rendered based upon  
a stipulation entered into by the parties as follows:

Judgment of possession is granted in favor of:

ROSEWALL GARDENS, ASSOCIATES  
and against

POTTER, CLARA

A counterclaim is granted in favor of the respondent in the amount of \$0.00  
(which if not being entered separately is offset and reflected in the  
total amount due, listed below.)

A money judgment is hereby granted, along with cost and disbursements  
in the amount of \$0.00 in favor of:

ROSEWALL GARDENS, ASSOCIATES  
and against  
POTTER, CLARA

for a total amount of \$4352.74

(Monthly use and occupancy is set at \$0.00 per month, as per order,  
stipulation or decision in record.)

Warrant to issue forthwith

Execution 4-7-2008

Date MAR 13 2008

JUDGE KEVIN C. McCLANAHAN

Judge, Civil/Housing Court

Section 5020(c) of the Civil Practice Law and Rules requires that a satisfaction be filed with the  
clerk when the judgment is satisfied. Failure to do so subjects the judgment creditor to penalties.

ENTRY OF JUDGMENT

Judgment entered in accordance with the above on

MAR 13 2008

*laura bear*  
Chief Clerk, Civil Court

Warrant issued to Marshal

On

CIV-LT-50(2006)

Page 1 of 1



RICHARD E. MCCOY  
MARSHAL  
CITY OF NEW YORK

241-04 HILLSIDE AVENUE  
BELLEROSE, NEW YORK 11426  
718-347-6844

W A R R A N T      R E Q U I S I T I O N

**COUNTY BRONX**

INDEX NUMBER B-07-067049

MARSHAL'S DOCKET # 243050

\*\*\*\*\* PETITIONER(S) \*\*\*\*\*

\*\*\*\*\* RESPONDENT(S) \*\*\*\*\*

ROSEWALL GARDENS ASSOCIATES

JAMES MORALES

CLARA POTTER

11. *What is the best way to increase the number of people who use a particular service?*

2300 SEDGWICK AVENUE **APT# 4R** ALL ROOMS

BRONX, NEW YORK 10468

N/P X H/Q

A/T X DEF

RES\_X COM\_

**COMMENTS:**

DATE 3/17/08

**SIGNATURE**

RICHARD E. MCCOY

CITY MARSHAL BADGE# 43

CIVIL COURT OF THE CITY OF NEW YORK  
County of Bronx

ROSEWALL GARDENS ASSOCIATES,

Plaintiff (Judgment Creditor),

-against-

James Morales,  
[REDACTED]

Defendant(s) (Judgment Debtor(s)).

THE PEOPLE OF THE STATE OF NEW YORK

X  
INFORMATION  
SUBPOENA WITH  
RESTRANDING NOTICE

L + T

FILE NO. 3594-1

Index No. 67409/07

WBS/et  
ME

To: TD Bank N. A.  
Levy Department  
P.O. Box 1880  
Cherry Hill, NJ 08034

Account Holds and Levies

RE: ROSEWALL GARDENS ASSOCIATES v James Morales

WHEREAS, there is an action in the above entitled Court, between the above named Plaintiff and Defendant who are all the parties named in said action, and a Judgment, which was entered on 03/13/2008 in favor of the Plaintiff, ROSEWALL GARDENS ASSOCIATES against the Defendant James Morales, in the total amount of 4352.74 of which 4352.74, together with interest thereon from the date of entry of Judgment remains due and unpaid.

WHEREAS, it appears that you may be in possession or custody of property which Judgment Debtor has an interest.

NOW THEREFORE, YOU ARE HEREBY COMMANDED, to furnish to the undersigned, in writing under oath, separate, complete and full answers to each written question on the questionnaire accompanying this Subpoena, and each answer referring to the questions to which it responds must be clearly noted; YOU MUST RETURN THE ANSWERS TOGETHER WITH THE ORIGINAL QUESTIONNAIRE WITHIN SEVEN (7) DAYS, after your receipt of this Subpoena.

RESTRANDING NOTICE

PLEASE TAKE NOTICE, that pursuant to subdivision (b) of Section 5222 of the CPLR which is set forth in full herein, you are hereby forbidden to make or suffer any sale, assignment or transfer of, interference with any property in which you have an interest, except as therein provided and that this notice also covers all property in which the Judgment Debtor has an interest hereinafter coming into your possession or custody, and all debts hereafter coming due from you to the Judgment Debtor.

CIVIL PRACTICE LAW AND RULES

Section 5222(b) Effect of restrain, prohibition of transfer, duration. A judgment debtor served with a restraining notice is forbidden to make or suffer any sale, assignment, transfer or interference with any property in which he has an interest, except upon direction of the sheriff or pursuant to an order of the Court, until the Judgment is satisfied or vacated. A restraining notice served upon a person other than the Judgment Debtor is effective only if, at the time of service, he owes a debt to the Judgment Debtor or he is in possession or custody of property in which he knows or has reason to believe the Judgment Debtor has an interest, or if the judgment credit has stated in the notice that a specified debt is owned by the person served to the judgment debtor or that the judgment debtor has an interest in specified property in the possession or custody of the person served, all property in which the judgment debtor is known or believed to have an interest then in and thereafter coming into the possession or custody of such a person including any specified in the notice, and all debts of such a person, including any specified in the notice, then due and thereafter coming due to the judgment debtor, shall be subject to the notice, such a person is forbidden to make or suffer any sale, assignment or transfer of, or any interest with, any such property, or pay over or otherwise dispose of any such debt, to any person other than the sheriff, except upon direction of the sheriff or pursuant to an order of the Court, until the expiration of one year after the notice is served upon him or until the judgment is satisfied or vacated, whichever event first occurs. A judgment creditor who has a specified personal property or debt in a restraining notice shall be liable to the owner of the property or the person to whom the debt is owed, if other than the judgment debtor, for any damages sustained by reason of the restrain. If a garnished served with a restraining notice withholds the payment of money belonging or owed to the judgment debtor in an amount equal to twice the amount due on the judgment, the restraining notice is not effective as to other property or money.

Funds Defined as "exempt" or otherwise excluded under applicable law must not be restrained under this notice. If you have any questions regarding such funds, refer to the attached information subpoena, or contact your attorney or the undersigned.

PLEASE TAKE FURTHER NOTICE that false swearing or failure to comply with this Subpoena and Restraining Notice is punishable as a Contempt of Court.

RESPONSE IS ONLY REQUIRED IF JUDGEMENT DEBTOR(S)  
HAS EVER HAD A RELATIONSHIP WITH YOUR INSTITUTION

Date: 3/18/2015

Gary Kavulich Esq.  
Kavulich & Associates, P.C.  
181 Westchester Avenue, Suite 500C  
Port Chester, NY 10573  
(914) 355-2074

DO NOT RESTRAIN IF ONLY EXEMPT  
MONIES IN ANY DEPOSITORY ACCOUNT

Civil Court of the City of New York  
County of Bronx

Index No. L&T 67409/07  
Claim No. 3594

## ROSEWALL GARDENS ASSOCIATES

**Plaintiff,**

-against-

**EXECUTION  
WITH NOTICE  
TO GARNISHEE**

James Morales,

**Defendant.**

THE PEOPLE OF THE STATE OF NEW YORK TO THE SHERIFF OR ANY MARSHAL OF THE CITY OF NEW YORK, GREETING;

WHEREAS, in an action in the Civil Court of the City of New York, County of Bronx,

#### between ROSEWALL GARDENS ASSOCIATES

as Plaintiff and

### as Defendant

who are all the parties named in said action, a judgment was entered on in favor of ROSEWALL GARDENS ASSOCIATES, and against James Morales,

03/13/2008

### Judgment-Creditor

**Judgment-Debtor**

whose last known address is 1160 Cromwell Avenue, Apt. #2A, Bronx, NY 10452-8723

in the amount of \$4,352.74 including costs, of which \$0.00 interest thereon from 03/13/2008 remains due and unpaid.

NOW, THEREFORE, WE COMMAND YOU as satisfy the said judgment out of the personal property of the above named Judgment-Debtor and the debts due to him; and that only the property in which said Judgment-Debtor who is not deceased has an interest or the debts owed to him shall be levied upon or sold hereunder; AND TO RETURN this execution to the clerk of the above captioned court within 60 days after issuance unless service of this execution is made within that time or within extensions of that time made in writing by the attorney(s) for the judgment creditor.

NOTICE TO GARNISHEE TO: TD Bank  
855 Franklin Avenue  
Garden City, NY 11530

WHEREAS, it appears that you are indebted to the judgment debtor, above named, or in possession or custody of property not capable of delivery in which the Judgment Debtor has an interest, including, without limitation, the following specified debt and property:

NOW, THEREFORE, YOU ARE REQUIRED by section 5232(a) of the Civil Practice Law and Rules forthwith to transfer to the said sheriff or marshal all personal property not capable of delivery in which the Judgment-Debtor is known or believed to have an interest now in or hereafter coming into your possession or custody including any property specified in this notice; and to pay to the said sheriff or marshal, upon maturity, all debts now due or hereafter coming due from you to the Judgment Debtor, including any debts specified in this notice; and to execute any documents necessary to effect such transfer or payment;

AND TAKE NOTICE that until such transfer or payment is made or until the expiration of 90 days after the service of this execution upon you or such further time as it provided by any order of the court service upon you whichever event first occurs, you are forbidden to make or suffer any sale assignment or transfer of, or any interference with, any such property, or pay over or otherwise dispose of any such debt, to any person other than said sheriff or marshal, except upon directions of said sheriff or marshal or pursuant to an order of the court.

AND TAKE FURTHER NOTICE THAT at the expiration of 90 days after a levy is made by service of this execution, or of such further time as the court upon motion of the Judgment-Creditor has provided, this levy shall be void except as to property or debts which have been transferred or paid to said sheriff or marshal or as to which a proceeding under sections 5225 or 5227 of the Civil Practice Law and Rules has been brought.

Dated: 4/27/2015

10

Gary Kavulich, Esq.  
Kavulich & Associates, P. C.  
181 Westchester Avenue, Suite 500  
Port Chester, NY 10573  
(914) 355-2074



# NEW YORK CITY MARSHAL

Stephen W. Biegel

109 West 38th Street, Suite 200 · New York, NY 10018

Phone: (212) MARSHAL (627-7425) · Fax: (212) 398-2000

NYC@MarshalBiegel.com · www.NewYorkCityMarshal.com

## LEVY AND DEMAND ON

TD BANK

401 FIFTH AVENUE (AT 37TH STREET)  
NEW YORK NY 10016

April 27, 2015

JUDGMENT CREDITOR  
ROSEWALL GARDENS ASSOCIATES

VS

JAMES MORALES  
[REDACTED]

JUDGMENT DEBTOR

### MARSHAL'S DOCKET # E-21285

Attached you will find a Property Execution with Notice to Garnishee. As directed under CPLR §5232(a), you are required to turn over to me all property of the judgment debtor currently in your possession or custody, not to exceed the following amount:

Judgment .....	\$4,352.74
Interest .....	\$2,795.33
Statutory Fees .....	\$85.00
Expense .....	\$0.96
Poundage .....	\$361.70
<b>TOTAL</b>	<b>\$7,595.73</b>



Should you have any questions, kindly contact my office.

FOR BANK USE ONLY. Please checkmark account status:

<input type="checkbox"/> Check is enclosed and accounts released	<input type="checkbox"/> Account(s) closed on: _____
<input type="checkbox"/> No account or assets maintained at this office	<input type="checkbox"/> Joint account / Turnover needed
<input type="checkbox"/> Account open but contains no funds.	<input type="checkbox"/> The account of the judgment debtor is overdrawn

Name: \_\_\_\_\_ Position: \_\_\_\_\_

I AGREE THAT THE FOLLOWING FORMS ARE ATTACHED TO THIS LEVY:

<input checked="" type="checkbox"/> Execution	<input type="checkbox"/> Information subpoena	<input type="checkbox"/> Copy of check
<input checked="" type="checkbox"/> Exemption notice and claim forms	<input type="checkbox"/> Restraining notice	<input type="checkbox"/> Other _____

SIGNATURE OF OFFICIAL ACCEPTING LEVY: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

(BANKER)

**EXEMPTION NOTICE**

as required by New York Law

**YOUR BANK ACCOUNT IS RESTRAINED OR "FROZEN"**

The attached Restraining Notice or notice of Levy by Execution has been issued against your bank account. You are receiving this notice because a creditor has obtained a money judgment against you, and one or more of your bank accounts has been restrained to pay the judgment. A money judgment is a court's decision that you owe money to a creditor. You should be aware that FUTURE DEPOSITS into your account(s) might also be restrained if you do not respond to this notice.

You may be able to "vacate" (remove) the judgment. If the judgment is vacated, your bank will be released. Consult an attorney (including free legal services) or visit the court clerk for more information about how to do this.

Under state and federal law, certain types of funds cannot be taken from your bank account to pay a judgment. Such money is said to be "exempt".

**DOES YOUR BANK ACCOUNT CONTAIN ANY OF THE FOLLOWING TYPES OF FUNDS?**

1. Social Security;
2. Social Security disability (SSD);
3. Supplemental security income (SSI);
4. Public assistance (welfare);
5. Income earned while receiving SSI or public assistance;
6. Veterans benefits;
7. Unemployment insurance;
8. Payments from pensions and retirement accounts;
9. Disability benefits;
10. Income earned in the last 60 days (90% of which is exempt);
11. Workers' compensation benefits;
12. Child support;
13. Spousal support or maintenance (alimony);
14. Railroad retirement; and/or
15. Black lung benefits;

If YES, you can claim that your money is exempt and cannot be taken.

To make a claim, you must

- a) complete the EXEMPTION CLAIM FORM attached;
- b) deliver or mail the form to the bank with the restrained or "frozen" account; and
- c) deliver or mail the form to the creditor or its attorney at the address listed on the form.

You must send the forms within 20 days of the postmarked date on the envelope holding this notice. You may be able to get your account released faster if you send to the creditor or its attorney written proof that your money is exempt. Proof can include an award letter from the government, an annual statement from your pension, pay stubs, copies of checks, bank records showing the last two months of account activity, or other papers showing that the money in your bank account is exempt. If you send the creditors attorney proof that the money in your account is exempt, the attorney must release that money within seven days. You do not need an attorney to make an exemption claim using the form.

**MARSHAL'S DOCKET # E-21285**

(EXEMPTION)

CIVIL COURT OF THE CITY OF NEW YORK  
 COUNTY OF BORONX INDEX# L&T67409/07

Docket # E-21285

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Judgment Creditor  
 ROSEWALL GARDENS ASSOCIATES

**EXEMPTION CLAIM FORM**

vs

Judgment Debtor  
 JAMES MORALES

1160 CROMWELL AVENUE APT# 2A  
 BRONX, NY 10452

## NAME AND ADDRESS OF JUDGMENT

## CREDITOR OR ATTORNEY

ADDRESS A

KAULICH &amp; ASSOCIATES, PC

181 WESTCHESTER AVE.  
 PORT CHESTER, NY 10573

## NAME AND ADDRESS OF

## FINANCIAL INSTITUTION

ADDRESS B

TD BANK

401 FIFTH AVENUE (AT 37TH STREET)  
 NEW YORK, NY 10016

Directions: To claim that some or all of the funds in your account are exempt, complete both copies of this form, and make one copy for yourself. Mail or deliver one form to ADDRESS A and one form to ADDRESS B within twenty days of the date on the envelope holding this notice. \*\*\*\*\*If you have any documents such as an award letter, an annual statement from your pension, paystubs, copies of checks or bank records showing the last two months of account activity, include copies of the documents with this form. Your account may be released more quickly.

I state that my account contains the following type(s) of funds (check all that apply):

- Social Security
- Social Security disability (SSD)
- Supplemental security income (SSI)
- Public assistance
- Wages while receiving SSI or public assistance
- Veterans benefits
- Unemployment insurance
- Payments from pensions and retirement accounts
- Income earned in last 60 days (90% of which is exempt)
- Child support
- Spousal support or maintenance (alimony)
- Workers' compensation benefits
- Railroad retirement or Black lung benefits
- Other (describe exemption)

I request that any correspondence to me my claim be sent to  
 The following address: \_\_\_\_\_

---

(FILL IN YOUR COMPLETE ADDRESS)

I certify under penalty of perjury that the statement above is true to the best of my knowledge and belief.

DATE

SIGNATURE OF JUDGMENT DEBTOR

(EXHIBIT HIC)

County of Bronx

INDEX NO. 67409/07

FILE NO. 3594-1

ROSEWALL GARDENS ASSOCIATES /Plaintiff

vs

EXEMPTION CLAIM FORMJames Morales /Defendant  
[REDACTED]NAME AND ADDRESS OF JUDGEMENT  
CREDITOR OR ATTORNEYADDRESS AKAVULICH & ASSOCIATES, P.C.  
SUITE 500C  
181 WESTCHESTER AVENUE  
PORT CHESTER, NY 10573NAME AND ADDRESS OF FINANCIAL  
INSTITUTIONADDRESS BTD Bank N. A.  
Levy Department  
P.O. Box 1800  
Cherry Hill, NJ 08034

Directions: To claim that some or all of the funds in your account are exempt, complete both copies of this form, and make one copy for yourself. Mail or deliver one form to ADDRESS A and one form to ADDRESS B within twenty days of the date on the envelope holding this notice.

\*\*\*\*If you have any documents such as an award letter, an annual statement from your pension, pay stubs, copies of checks or bank records showing the last two months of account activity, include copies of those documents with this form. Your account may be released more quickly.

I state that my account contains the following type(s) of funds (check all that apply):

- Social Security
- Social Security Disability (SSD)
- Supplemental Security Income (SSI)
- Public assistance
- Wages while receiving SSI or public assistance
- Veterans benefits
- Unemployment Insurance
- Payments from pensions and retirement accounts
- Income earned in last 60 days (90% of which is exempt)
- Child support
- Spousal support or maintenance (alimony)
- Workers' compensation benefits
- Railroad retirement or Black lung benefits
- Other (describe exemption) Earned income from the past 60 days

I request that any correspondence to me my claim be sent to  
the following address: 2400 Walton Ave, Apt #1

Bronx, NY 10468

(FILL IN YOUR COMPLETE ADDRESS)

I certify under penalty of perjury that the statement above is true to the best of my knowledge and belief.

4-30-15

DATE SIGNATURE OF JUDGMENT DEBTOR

James Morales Jr.

CIVIL COURT OF THE CITY OF NEW YORK      NO CALENDAR NUMBER ASSIGNED  
COUNTY OF BRONX: PART 34H      L&T INDEX NO. 67409/07  
-----X      FILE NO. 3594  
ROSEWALL GARDENS ASSOCIATES,

Petitioner,

NOTICE OF MOTION

- against -

POST- POSSESSION  
MONEY ENFORCEMENT

JAMES MORALES,  
CLARA POTTER,  
TD BANK, N.A.,

Respondents.

-----X

MOTION BY:

Kavulich & Associates, P.C.  
Attorneys for Petitioner

DATE, TIME AND PLACE  
OF HEARING:

May 18, 2015

9:30 a.m.

Motion Term: Part 34H, Room 503  
Civil Court of the City of New York  
County of Bronx  
851 Grand Concourse  
Bronx, NY 10451

*Never calendared*

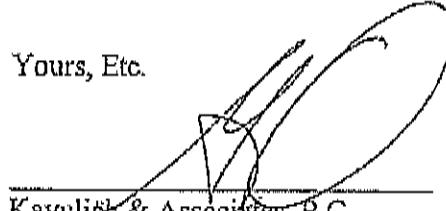
Affirmation of Gary Kavulich, Esq., dated  
May 5, 2015, and upon all the papers and  
proceedings heretofore had herein.

RELIEF REQUESTED:

Order: directing JP Morgan Chase Bank, N.A. to release all non-exempt funds it presently holds of Judgment-Debtor/Respondent James Morales Francois to the Petitioner forthwith, and for such other and further relief as to this court may seem just and proper.

Dated: Port Chester, New York  
May 5, 2015

Yours, Etc.

  
\_\_\_\_\_  
Kavulich & Associates, P.C.  
By: Gary Kavulich, Esq.  
Attorneys for Plaintiff  
181 Westchester Ave., Suite 500C  
Port Chester, NY 10573  
Phone (914) 355-2074

TO: James Morales  
2400 Walton Avenue, Apt. H  
Bronx, NY 10468

Clara Potter  
2430 Morris Avenue, Apt. 4B  
Bronx, NY 10468

JP Morgan Chase Bank, N.A.  
Court Orders & Levies Department  
PO Box 183164  
Columbus, OH 43218

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX: PART 34H

ROSEWALL GARDENS ASSOCIATES,

X  
L&T INDEX NO. 67409/07  
FILE NO. 3594

Petitioner,

NOTICE OF MOTION

- against -

POST- POSSESSION  
MONEY ENFORCEMENT

JAMES MORALES,  
CLARA POTTER,  
TD BANK, N.A.,

Respondents.

X

Gary Kavulich, Esq., an attorney duly admitted to practice law before the Courts of the State of New York hereby affirms the following under the penalty of perjury pursuant to CPLR 2106.

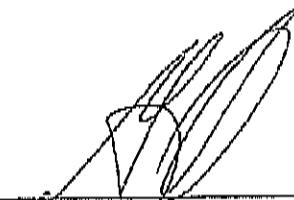
1. I am a member of the law office of Kavulich & Associates, P.C., attorneys for the Petitioner herein, and as such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated to be based upon information and belief, and as to those matters, I believe them to be true. The basis of my belief is information furnished to me by my client, information contained within the Court's file, and information contained within the file as maintained by your affiant's office.
2. I make this affirmation in support of the instant motion for an Order directing TD Bank, N.A. (hereinafter "the Bank") to release to the Petitioner all non-exempt funds presently held by the Bank in the Respondent/Judgment Debtors' account(s) (hereinafter "Respondent") and for such other and further relief as to this court may seem just and proper.
3. The within proceeding was commenced by the Petitioner against the Respondent and co-Respondent Clara Potter in the Civil Court of the City of New York, County of Bronx, Housing Part, under the instant index number.
4. Thereafter, Petitioner obtained a money judgment on or about March 13, 2008, against the Respondents in the sum of \$4,352.74. Annexed hereto as Exhibit "I" is a copy of said judgment.
5. Thereafter, your affiant's office began execution measures to collect on the outstanding judgment.

6. The Petitioner has garnished co-Respondent/Judgment Debtor Clara Potter and there remains, as of today, a balance due of \$1,811.08.
7. No monies have been received since December 28, 2011.
8. As a part of those execution measures, your affirmant's office served upon the Bank a restraining notice with information subpoena on or about April 2, 2015.
9. Thereafter, our offices were notified by the Defendant that his bank account had been restrained.
10. Your affirmant's office had not yet received a response to the restraining notice from the Bank.
11. As such, your affirmant's office called the Bank and was advised that the Defendant's account was restrained, after applying the exemption amount, in the sum of \$20,749.26.
12. To this date, we have not received a written response from the Bank.
13. Thereafter, on May 5, 2015, your affirmant received an Exemption Claim Form from the Defendant. Annexed hereto as Exhibit "2" is a copy of said Exemption Claim Form.
14. As a part of his Exemption Claim, the Defendant alleges that monies being deposited into said account(s) contain funds earned from unemployment within the last 60 days. Please see aforementioned Exhibit "2."
15. However, while said account(s) may contain some of such monies, assuming for this moment that said claim is true, there is no accounting of the funds in the account(s). Please see aforementioned Exhibit "2."
16. Defendant's claim for exemption that he should not have his account garnished because it contains such funds cannot be granted as there is no accounting of the funds in the subject account(s). Please see aforementioned Exhibit "2."
17. Moreover, Defendant has not offered a bank statement or any alternative proof that the monies stated in the account(s) consist of only exempt funds.
18. If the funds were/are co-mingled with non-exempt funds, the law clearly states that the otherwise exempt funds lose their protected status.

19. Thereafter, and pursuant to the directive in said Exemption Claim Form, your affiant's office caused to be served upon the Bank a copy of this motion as an Objection to the Claimed Exemption. Annexed hereto as Exhibit "3" is a copy of the cover page and facsimile transmittal form illustrating the service of said Objection.
20. Without comprehensive proof of what funds are in the subject account(s) and that they meet the statutory requirements entitling those funds to an exemption, Plaintiff/Judgment-Creditor is entitled to any non-exempt funds to satisfy the underlying judgment.
21. Since entry of the judgment, no monies have been paid by the Defendants or any other source.
22. No prior application for the relief requested herein has been made.

WHEREFORE, your affiant respectfully requests that the within motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Dated: Port Chester, NY  
May 5, 2015



Kavulich & Associates, P.C.  
By: Gary Kavulich, Esq.  
Attorneys for Plaintiff  
181 Westchester Ave., Suite 500C  
Port Chester, NY 10573  
(914) 355-2074

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BX : PART L

Roswell Gardens No. 50

Petitioner-  
Landlord

DATE 9-27-06 313

Chas. P. O. L.  
James M. M. 1853

- against -

### Respondent- Tenant

HON. McGOWAN

INDEX NO. 6758167 YR / INDEX NUMBER

ADDRESS 2320 Sprague APT. Ave 4K

P. G. WAGNER AND A. A.

IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. PETITION IS AMENDED TO INCLUDE ALL RENT DUE THROUGH 3/1/06

2. FINAL JUDGEMENT IS ENTERED IN FAVOR OF THE PETITIONER IN THE SUM OF \$ 4,352.71

3. ISSUANCE OF THE WARRANT SHALL BE (FORTHWITH, EXECUTION) STAYED AS FOLLOWS:

(A) TENANT TO PAY \$ 4,352.71 ON OR BEFORE 4/1/08

(B) TENANT TO PAY \$ \_\_\_\_\_ ON OR BEFORE \_\_\_\_\_

(C) TENANT TO PAY \$ \_\_\_\_\_ ON OR BEFORE \_\_\_\_\_

(D) TENANT TO PAY \$ \_\_\_\_\_ ON OR BEFORE \_\_\_\_\_

4. IN THE EVENT TENANT FAILS TO MAKE ANY PAYMENT(S) ABOVE, THE WARRANT SHALL (ISSUE UPON LANDLORD'S AFFIDAVIT OF NONCOMPLIANCE OR ATTORNEY'S AFFIRMATION) EXECUTE UPON SERVICE OF MARSHALL'S NOTICE.

5. IN THE EVENT TENANT DEFAULTS ON ANY PAYMENT(S) INCLUDING CURRENT RENT, THE ENTIRE FINAL JUDGEMENT AMOUNT WILL BE DUE IMMEDIATELY.

6. THE ABOVE FINAL JUDGEMENT AMOUNT DOES NOT INCLUDE RENT FOR THE MONTH(S) OCCURRING AFTER THIS DATE WHICH RENT IS PAYABLE WHEN DUE AS FOLLOWS:

7. THEREFORE, ALL PAYMENT(S) RECEIVED DURING THE MONTHS HERIN AFTER WILL BE APPLIED TO CURRENT RENT FOR THAT MONTH, AND THEN SATISFY THE JUDGEMENT AMOUNT AS PER PARAGRAPH THREE.

8. IF ANY DISPUTED BALANCE CANNOT BE RESOLVED, THE PETITIONER MAY MOVE TO AMEND THE JUDGEMENT AMOUNT OR INSTITUTE A NEW PROCEEDING FOR SAID DISPUTED BALANCE.

17) LL to inquire whether as required under s16(1)(b) of the FOIA  
alleged refuse is (a) documents, (b) by virtue of being, (c) transmission, (d) access  
Access 3/27/08

(10) Three blocks, which fail to appear, taking 1 m<sup>2</sup> each, are missing from the bottom of the section as suggested in Figure 1. Illustrate this section with a sketch, showing the missing blocks and the new top surface.

DATED:

GUTMAN, MINTZ, BAKER & SONNENFELDT, P.C.  
ATTORNEYS FOR PETITIONERS

BY: 813 JERICHO TURNPIKE  
NEW RYDE PARK, N.Y. 11040

**AGENT**

**TENANT**

EXHIBIT 2

County of Bronx

INDEX NO. 67409/07

FILE NO. 3594-1

ROSEWALL GARDENS ASSOCIATES /Plaintiff

vs

EXEMPTION CLAIM FORM

James Morales /Defendant  
[REDACTED]

NAME AND ADDRESS OF JUDGEMENT  
CREDITOR OR ATTORNEY

ADDRESS A

KAVULICH & ASSOCIATES, P.C.  
SUITE 500C  
181 WESTCHESTER AVENUE  
PORT CHESTER, NY 10573

NAME AND ADDRESS OF FINANCIAL  
INSTITUTION

ADDRESS B

TD Bank N. A.  
Levy Department  
P.O. Box 1880  
Cherry Hill, NJ 08034

Directions: To claim that some or all of the funds in your account are exempt, complete both copies of this form, and make one copy for yourself. Mail or deliver one form to ADDRESS A and one form to ADDRESS B within twenty days of the date on the envelope holding this notice.

\*\*\*\*If you have any documents such as an award letter, an annual statement from your pension, pay stubs, copies of checks or bank records showing the last two months of account activity, include copies of those documents with this form. Your account may be released more quickly.

I state that my account contains the following type(s) of funds (check all that apply):

- Social Security
- Social Security Disability (SSD)
- Supplemental Security Income (SSI)
- Public assistance
- Wages while receiving SSI or public assistance
- Veterans benefits
- Unemployment insurance
- Payments from pensions and retirement accounts
- Income earned in last 60 days (90% of which is exempt)
- Child support
- Spousal support or maintenance (alimony)
- Workers' compensation benefits
- Railroad retirement or Black lung benefits

Other (describe exemption) Earned income from the past 60 days

I request that any correspondence to me my claim be sent to  
the following address: 2400 Walton Ave, Apt 4

Bronx, NY 10468

(FILL IN YOUR COMPLETE ADDRESS)

I certify under penalty of perjury that the statement above is true to the best of my knowledge and belief.

4-30-15

SIGNATURE OF JUDGMENT DEBTOR

### EXHIBIT 3

181 Westchester Ave  
Suite 500C  
Port Chester, NY 10573  
Phone: (914) 355-2074  
Fax: (914) 355-2078

Kavulich & Associates, P.C.

# Fax

To: T.D. Bank From: Gary Kavulich  
 Attn: Levy Dept.  
 Fax: 866-914-3704 Pages: 13  
 Phone: \_\_\_\_\_ Date: May 5, 2015  
 Re: Objection to Exemption Claim: James Morales (Art. Holder)  
 Urgent For Review Please Comment Please Reply  
 Comments: \_\_\_\_\_

05/05/2015 17:39

P.001

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

JOB NO.	MODE	NO.	DESTINATION TEL/ID	START TIME	PAGE	RESULT
6920	TX	ECM	001 18569143704	05/05 17:36	013	OK 02'46

181 Westchester Ave  
Suite 500C  
Port Chester, NY 10573  
Phone: (914) 355-2074  
Fax: (914) 355-2078

Kanilich & Associates, P.C.

# Fax

To: T.D. Bank From: Gary Kanilich  
Attn: Levy Dept.  
Fax: 856.914.3704 Pages: 13  
Phone:  Date: May 5, 2015  
Re: Objection to Exemption Claim: James Morales (Act. Holder)  
Urgent      For Review      Please Comment      Please Reply  
Comments:

This facsimile contains information which is confidential and/or legally privileged. This information is intended for use only by the addressee indicated above. If you are not the intended recipient, please be advised that any disclosure, copying and/or distribution of the contents of this information is strictly prohibited, and that any misdirected or otherwise improperly received information must be returned to the firm immediately. Your cooperation in advising us of erroneous receipt is hereby requested.

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX: PART 34H

ROSEWALL GARDENS ASSOCIATES,

L&T INDEX NO. 67409/07  
FILE NO. 3594

Petitioner,

AFFIRMATION OF  
SERVICE

- against -

JAMES MORALES,  
CLARA POTTER  
TD BANK, N.A.,

Respondents.

X

Gary Kavulich, Esq., an attorney duly admitted to practice law before the courts of the State of New York hereby affirms the following under the penalty of perjury.

On May 5, 2015, I served the within Notice of Motion and Motion upon James Morales and Clara Potter, the Respondents/Judgment-Debtors in this action, and TD Bank, N.A. by depositing a true copy in a post paid envelope addressed to:

James Morales  
2400 Walton Avenue, Apt. H  
Bronx, NY 10468

Clara Potter  
2430 Morris Avenue, Apt. 4B  
Bronx, NY 10468

TD Bank, N.A.  
Levy Department  
PO Box 1880  
Cherry Hill, NJ 08034

And Via Facsimile to TD Bank, N.A. @ (856) 914-3704

in an official depository under the exclusive dominion and control of the United States Postal Service within the State of New York via regular first class mail with certificate of mailing.

Gary Kavulich, Esq.